

**COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND CABLE**

Application of Starlink Services, LLC for
Designation as an Eligible Telecommunications
Carrier for Purposes of Receiving Rural Digital
Opportunities Fund Support

D.T.C. 21-1

STARLINK SERVICES' MOTION FOR CONFIDENTIAL TREATMENT

1. Starlink Services, LLC respectfully requests that the Department grant confidential treatment to and exempt from public disclosure the following information and/or documents being submitted in response to the Department's First Set of Information Requests, which responses this motion accompanies:

- a. Response to DTC 1-1: FCC Forms 183 (Short-Form Application) and 683 (Long-Form Application).
- b. Response to DTC 1-12(a): numbers of beta program customers by state.

This information and/or these documents constitute or contain proprietary, confidential, and/or competitively sensitive information that is entitled to confidential treatment and protection from public disclosure.

2. Pursuant to G. L. c. 25C, § 5, "the [D]epartment may protect from public disclosure trade secrets, confidential, competitively sensitive or other proprietary information provided in the course of proceedings conducted pursuant to this chapter."

Chapter 25C, section 5 establishes a three-part standard for determining whether, and to what extent, the Department may protect information from public disclosure. First, the information for which protection is sought must constitute "trade secrets, [or] confidential, competitively sensitive or other proprietary information." *Id.* Second, the party seeking protection must rebut the statutory presumption that all such information is public information by proving the need for its non-disclosure. *Id.*; see also G.L. c. 66, § 10. Third, even where a party proves such need, the

Department may protect only so much of that information as is necessary to meet the established need and may limit the term or length of time such protection will be in effect. *See* G.L. c. 25C, § 5; *Investig. by the Dep't of Telecomms. & Energy on its own Mot. Into the Appropriate Regulatory Plan to succeed Price Cap Regulation for Verizon New England, Inc. d/b/a Verizon Mass.' intrastate retail telecomms. servs. in the Commonw. of Mass.*, D.T.E. 01-31 Phase I, Interlocutory Order (Aug. 29, 2001) at 3 (citing G.L. c. 25, § 5D, the predecessor to G.L. c. 25C, § 5).

Petition of CoxCom, LLC d/b/a Cox Communications New England to establish and adjust the equipment and installation rates for the Town of Holland, D.T.C. 19-6, Hearing Officer Ruling at 2-3 (December 10, 2020).

“A trade secret may consist of any formula, pattern, device or compilation of information which is used in one's business, and which gives him an opportunity to obtain an advantage over competitors who do not know or use it.” *J.T. Healy and Son, Inc. v. James Murphy and Son, Inc.*, 357 Mass. 728, 736, 260 N.E.2d 723, 729 (1970) (quoting *Restatement of Torts*, § 757). A leading Massachusetts case cites “six factors of relevant inquiry” in determining trade secret status: (1) the extent to which the information is known outside of the business; (2) the extent to which it is known by employees and others involved in the business; (3) the extent of measures taken by the employer to guard the secrecy of the information; (4) the value of the information to the employer and its competitors; (5) the amount of effort or money expended by the employer in developing the information; and (6) the ease or difficulty with which the information could be properly acquired or duplicated by others. *Jet Spray Cooler, Inc. v. Crampton*, 361 Mass. 835, 282 N.E.2d 921, 925 (1972).

3. The information and/or documents that are the subject of this Motion are entitled to protection under these standards.

a. The FCC Forms 163 and 863 (Attachments 1-1-A and 1-1-B) submitted in response to DTC 1-1 are filed with the FCC on a confidential basis and have been granted confidential status by the FCC. *Rural Digital Opportunity Fund Phase I Auction Scheduled for October 29, 2020*, AU Dkt. No. 20-34, Notice and Filing Requirements and Other Procedures for Auction 904, FCC 20-77, 35 FCC Rcd. 6077, ¶¶ 140-145 (rel. June 11, 2020).¹ They contain confidential and competitively sensitive corporate and technical information, which is not publicly available, and which is maintained on a proprietary basis within the company. The disclosure of this information could adversely affect the financial position of Starlink Services and the normal conduct of its business operations and could cause competitive harm to Starlink Services.

b. The chart listing numbers of beta program customers submitted in response to DTC 1-12(a) contains confidential, proprietary, and competitively-sensitive information. While the existence of Starlink Services' beta program has been publicized, specific customer numbers have not been made available. These figures are maintained on a confidential basis within the company, and only limited company personnel have access. Revealing such numbers publicly would allow competitors to respond by directing their deployment, sales, and marketing efforts to particular states or locations with resulting competitive harm to Starlink Services.

4. In sum, the information and/or documents described above are confidential, competitively sensitive, and proprietary; are not readily available to competitors; and would be of value to such competitors. There is no compelling need for public disclosure of any of this information.

¹ https://docs.fcc.gov/public/attachments/FCC-20-77A1_Rcd.pdf.

WHEREFORE, Starlink Services respectfully requests that the Department afford confidential treatment to the information and/or documents described above and exclude them from the public record in this case.

March 18, 2021

Respectfully submitted,

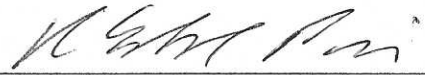
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Certification

The undersigned is Senior Counsel for Space Exploration Technologies Corp., the parent company of Starlink Services, LLC. I certify to the best of my knowledge, information, and belief, that the information described in the foregoing Motion for Confidential Treatment is not customarily available in the public domain.

March 18, 2021



R. Edward Price, Senior Counsel
Space Exploration Technologies Corp.